

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:12-CR-00024-BO-1

UNITED STATES OF AMERICA)
)
v.)
)
PHYLLIS STALLINGS HARRELL)

ORDER

The matter is before the court on the motion of defendant Phyllis Stallings Harrell (“Harrell”) seeking a court recommendation regarding the length of Residential Reentry Center (“RRC”) placement and/or home confinement. [D.E. 144]. For the reasons that follow, defendant’s motion is denied.

BACKGROUND

On November 14, 2013, Harrell pleaded guilty to one count of conspiracy to commit health care fraud and wire fraud in violation of 18 U.S.C. § 1349. See [D.E. 57, 58]. The pre-sentence investigation report listed the statutory maximum term of imprisonment as 20 years and the guideline range between 87 months to 108 months. See [D.E. 75] at 13. After a downward departure from the guideline range, the court sentenced Harrell to 72 months imprisonment and three years of supervised release. See [D.E. 84, 85]. Harrell is now serving her sentence at Federal Prison Camp Alderson with an anticipated release date of September 21, 2019. See BOP Inmate Locator, <http://www.bop.gov/inmateloc/> (search by inmate name) (last visited October 4, 2018).

On April 16, 2018, Harrell filed pro se the instant motion requesting that the Court make a recommendation to the Bureau of Prisons that she be permitted to serve the final months of her term of imprisonment in either a Residential Reentry Center (“RRC”), also known as a halfway

house, and/or on home confinement. See Mot. [D.E. 144]. Harrell relies on the Second Chance Act, 18 U.S.C. § 3624(c)(1), as the basis of her motion. Id.

DISCUSSION

The Second Chance Act does not empower the court to reduce sentences or change the location of where a sentence is to be served. That authority remains vested in the Bureau of Prisons. The Second Chance Act expands the authority of the Bureau of Prisons to allow a prisoner serving a sentence of incarceration to spend up to twelve months in a half-way house so as to ease the transition from prison to freedom. Thus, the Second Chance Act grants expanded authority to the Bureau of Prisons regarding half-way house service, but does not vest the authority in this court.


United States v. Squire, No. CR 3:09-502-JFA, 2012 WL 3848364, at *1 (D.S.C. Sept. 5, 2012).

Accordingly, the Court is without the authority to require the Bureau of Prisons to allow Harrell to serve any period of time in a residential reentry center or home confinement. Further, although Harrell correctly notes the court is not precluded from making a recommendation to the Bureau of Prisons regarding Harrell's placement, the court declines the invitation. See United States v. Shroyer, No. 2:17CR00003, 2017 WL 4684192, at *1 (W.D. Va. Oct. 18, 2017) (noting the BOP is in the best position to determine the appropriateness of a prisoner's halfway house placement).

CONCLUSION

For the foregoing reasons, defendant Harrell's motion for a recommendation [D.E. 114] is DENIED.

SO ORDERED, this 4 day of October, 2018.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE